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Hearings

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ROYAL COMMISSION
INQUIRY INTO LABOUR DISPUTES

343

HEARINGS HELD AT
TORONTO

VOL. NO.

42

DATE

May 31, 1967

Official Reporters

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IN THE MATTER OF The Public
Inquiries Act, R.S.O. 1960,
Ch. 323

- and -

IN THE MATTER OF an Inquiry
Into Labour Disputes

BEFORE:

The Honourable Ivan C. Rand,
Commissioner, at 123 Edward
Street, Toronto, Ontario on
Wednesday, May 31st, 1967.

E. Marshall Pollock Counsel to the Commission

APPEARANCES:

Mr. R. Bradshaw,)	The Hamilton District
President)	
)	Council of Public
Mr. D. McEntee,)	
Staff Representative)	Employees.

Letter from Ontario Hydro

Page No. 5188

Toronto, Ontario

Wednesday, May 31st, 1967

---On commencing at 10:00 a.m.

MR. POLLOCK: The Hamilton District Council of Public Employees, R. Bradshaw President and Mr. D. McEntee.

Well, gentlemen, we have just received your brief and have had a very cursory glance over it. Perhaps, before we get into the presentation of the brief which Mr. Bradshaw knows is a matter of pretty informal proceedings, you might outline to the Commission, the nature of the representation. You say you have 5000 employees in the Hamilton area in various groups. I wonder if you could break it down into what groups most of these people fall, or whether you have those figures with you.

MR. BRADSHAW: Mr. McEntee is in a position to give you the numbers.

MR. McENTEE: We have approximately 3000 people in hospitals, 1000 municipal workers ---

MR. POLLOCK: Are they broken down into inside and outside workers?

MR. McENTEE: You might say 500 inside and 500 outside.

THE COMMISSIONER: The inside people would be office people?

MR. McENTEE: That is right, white collar workers.

THE COMMISSIONER: And the outside,

1 what would they do?

2 MR. McENTEE: Roads, streets and
3 sand, garbage collection - the traditional role of
4 the blue-collar worker. We have a number of people
5 on Boards of Education.

6 MR. POLLOCK: That is outside that
7 1000?

8 MR. McENTEE: That is correct. But
9 Boards of Education, we have about 500 people.

10 MR. POLLOCK: And they do what type
11 of work?

12 MR. McENTEE: Mostly janitorial, and
13 then we have Library Board employees.

14 MR. POLLOCK: Likewise janitorial?

15 MR. McENTEE: No, clerical and
16 janitorial. Mostly clerical - about 100. We have
17 Harbour Board employees who come under federal labour
18 laws, including the policemen for the Harbour Board
19 and the service workers. We have homes for the aged,
20 approximately 250 workers.

21 THE COMMISSIONER: And how many would
22 work in the harbour?

23 MR. McENTEE: Oh, 60 to 75 people,
24 perhaps.

25 MR. POLLOCK: And the homes for the
26 aged, these are the whole staffs, I suppose, outside
27 of the professional?

28 MR. McENTEE: Everything outside of
29 registered nurses, the service workers. Basically, that
30 is it, Mr. Chairman.

1 MR. POLLOCK: That, I think, gives us
2 a better idea of the type of people we are talking
3 about now.

4 MR. BRADSHAW: Would you like me to
5 read this?

6
7 (Mr. Bradshaw reads brief from its beginning down
8 to "...to offset them." on page 2.)

9 MR. POLLOCK: Do you wish us to withhold
10 the questions or discuss them as you read the brief?

11 MR. BRADSHAW: I would accept whichever
12 way you wish to do it.

13 MR. POLLOCK: Well, perhaps before we
14 leave this topic of the introduction, you suggest that
15 you are interested in the right to threaten strike,
16 rather than the right to strike. Now, I think that
17 is probably true for anybody who is involved in labour
18 relations today: Nobody wants to go on strike. It is
19 not pleasant for either side. But if the threat doesn't
20 work, then the question is: Is it a hollow threat or
21 is it a meaningful threat?

22 MR. BRADSHAW: You would have to have
23 the right to strike. To threaten to strike is
24 impossible without it.

25 MR. POLLOCK: That is right but as a
26 practical matter, for example, today the Ontario Hydro
27 Production employees have a right to strike. They are
28 not proscribed by legislation; they can go on strike.
29 But it would not take an overactive imagination to
30 foresee that the same type of legislation that was

1 enacted in 1961 and 1962 will be re-enacted again to
2 prevent that type of activity and I think, possibly,
3 the Hydro management appreciates that.

4 Now, in those circumstances, do you
5 think that there is any real threat of a strike to
6 management or do you think - I am asking this in two
7 parts - do you think that the part that legislation
8 has to be passed to head off a strike or to prevent
9 a strike, draws the issue between the parties to the
10 public's attention?

11 MR. McENTEE: I think that we gave you
12 a button and you are trying to sew a suit on it. I
13 think, first of all, you have got to enlarge on what
14 you are asking, to say who is concerned, what group
15 of people, what are the issues on which they are going
16 to make a decision whether or not to go on strike, what
17 is management's reaction at the given moment. In
18 making the statement that we are interested in the
19 right to threaten to strike, without the right
20 actually to strike, because this is the context we
21 mention it in, there is no equality at the table. I
22 think, going in, if it can be assumed beforehand by
23 management that there is no strike threat, that it is
24 much easier to say "no" than if you are bargaining
25 under the pressure of a potential strike at any given
26 moment.

27 THE COMMISSIONER: But suppose, instead
28 of the strike you have something that is equally
29 objectionable to management and that is a compulsory
30 arbitration. You are not helpless, you are not without

1 anything. You can say, "Very well, we will take you
2 to an independent board which will decide whether or
3 not our claims are just". If you had not that, why
4 of course, there is no doubt you are in a position
5 of inferiority.

6 MR. McENTEE: We do cover compulsory
7 arbitration later in the brief and I would like to
8 comment on that at that given time. But in relation
9 to the question, regardless of compulsory arbitration
10 taking this out of context at the moment, I feel that
11 you must come to the bargaining table as equals. With
12 management with the right to refuse to give you what
13 you consider to be your legitimate requests, your right
14 to withdraw your labour if you don't get what you are
15 after, only then can you have a valid or viable exchange
16 or compromise. Where there is no power on the union's
17 side, the possibility is that you weaken the union's
18 economic position of getting what they figured to be
19 just. I am not saying what is just, I am saying what
20 they figure to be just. And this was proposed as a
21 lead-in to some of the other things because our brief
22 possibly approaches this problem from a different
23 angle than most of the briefs we have been fortunate
24 enough to read of in the papers. We are really not
25 talking about repressive laws: We are talking about
26 what we think leads up to the frustrations that
27 eventually cause strikes and we are suggesting throughout
28 in recommendations, things that we think could make the
29 path effecting compromise and effecting solutions more
30 easy.

1 I think if we follow the brief through,
2 perhaps your questions might be better posed at the
3 end.

4 MR. POLLOCK: All right.

5
6 (Mr. Bradshaw continues reading brief from "Negotiating
7 when there..." down to "...make conciliation desirable."
8 on page 3.)

9 MR. POLLOCK: That is an automatic
10 retroactivity, is it, on those things mentioned on
11 that page?

12 MR. BRADSHAW: Yes.

13 MR. POLLOCK: Not a discretionary
14 one?

15 MR. BRADSHAW: No.

16
17 (Mr. Bradshaw continues reading brief down to "...
18 previous agreement expired." on page 7.)

19 MR. POLLOCK: Those are the two time
20 limits you suggested before, but they were mandatory
21 in your suggestion before, but here they are in the
22 discretion of the arbitrator.

23 MR. BRADSHAW: Yes.

24 (Mr. Bradshaw continues reading brief down to "... is
25 respectfully submitted." on page 10.)

26 MR. POLLOCK: Now, gentlemen, if we can
27 turn for the moment to the submissions you make about
28 essential services and compulsory arbitration, from the
29 introduction, I note that you do not represent two of
30

1 the other groups that are covered by today, presently,
2 compulsory arbitration - police or firemen - so we
3 are not talking about those people. In your experience
4 with hospital arbitration, first of all, how many
5 contracts have you negotiated since the coming into
6 effect of this legislation?

7 MR. McENTEE: 20 hospital agreements,
8 perhaps.

9 MR. POLLOCK: Of those, how many had
10 to be referred to arbitration?

11 MR. McENTEE: Three.

12 MR. POLLOCK: What was the general
13 result, so far as the union was concerned, in
14 comparing the 17 that were negotiated and the three
15 that were arbitrated - the final results?

16 MR. McENTEE: I am not sure exactly
17 what your question means.

18 MR. POLLOCK: Well, is there a signifi-
19 cant or drastic difference between the type of contract
20 that was negotiated in the 17 cases and the type of
21 contract that was arbitrated and signed, pursuant to
22 the legislation in the 3 cases? This is in relation
23 to working conditions.

24 MR. McENTEE: No, I don't think so.
25 I think there is one factor which compulsory arbitration
26 boards have brought about and which, perhaps, might be
27 a Rand Formula pay-off on union security. This may
28 be one factor that has come into it but in comparison
29 of wage settlements or monetary settlements, I would
30 say that roughly, they are equivalent. Of course, it

1 always depends on your starting base.

2 I don't want this to be taken out of
3 context, but there is something of significance here
4 to me, as a person who is opposed to compulsory
5 arbitration, and that is that for the moment - and I
6 will qualify that later - for the moment, compulsory
7 arbitration is working only because no one is making
8 use of it. They are attempting to avoid it, that is,
9 both managements and unions are attempting to avoid
10 it and are sitting down and more effectively negotiating
11 than they did in the past, particularly on the part
12 of management, I would say.

13 MR. POLLOCK: I think you could say
14 it is working very well.

15 MR. McENTEE: In spite of itself.
16 We are now in the position where we can discuss things
17 that never before were acceptable at the bargaining
18 table - not always coming up with what we wanted, but
19 there is an air of acceptance of management's role in
20 arbitration but I think a lot of this springs from
21 the general, economic boom that hospital workers at
22 last are getting some of the increases they should
23 have gotten anyway. So that whether we would have
24 gotten them without compulsory arbitration, I am
25 unable to say. I shudder to think when the economic
26 boom is over what would happen because many more
27 cases would go to compulsory arbitration and then we
28 would possibly have a better proof of whether it
29 works or not.

30 MR. POLLOCK: Well, of course, under

1 the system of compulsory arbitration in the hospitals,
2 the basic philosophy of the legislation is that the
3 parties should make the settlement themselves, should
4 negotiate just under the collective bargaining,
5 ordinary labour relations organizations, the parties
6 are to decide and then if they can't they go to strike.
7 In this case, if you can't decide you go to arbitration.

8 What was the cause, in those three cases,
9 of referral to arbitration?

10 MR. McENTEE: The first case was in
11 Metropolitan Toronto, trying to break a wage barrier
12 that had been agreed to by the Metropolitan Toronto
13 Council of Hospitals. That was very, very slightly
14 dented, it wasn't really broken. The second case,
15 which has not yet been heard, but which will be on
16 June 15th, concerns a case in a two-hospital town and
17 each hospital is using the other as a crutch to
18 maintain a low wage rate. The third case is in a
19 hospital which already had a relatively high wage
20 rate in comparison with other negotiated hospital
21 wage rates in the same community but yet, those wage
22 rates have been in effect as long as 7 and 8 months
23 and management felt themselves in a position to only
24 offer parity. The unions felt that they should have
25 something beyond the standard wage settlement because
26 termination date brought them 8 months later.

27 I think those things will be effectively
28 resolved in arbitration. I think there are outside
29 pressures which force management in both these cases
30 in the situation we are in.

1 MR. POLLOCK: So there is, in effect,
2 pressure on management in these circumstances to start
3 to negotiate some items which, in the past, they have
4 not negotiated, or have not been negotiable, and were
5 not discussed.

6 MR. McENTEE: No, I think you have taken
7 my "pressure" wrongly. I am saying there was pressure
8 preventing them from doing what they would like to have
9 done on their own.

10 THE COMMISSIONER: What pressure?

11 MR. McENTEE: I am surmising, Mr.
12 Chairman, that the Ontario Hospital Services Commission
13 has a laid down recommended ceiling of rates for
14 hospitals in a given area, surmising that they have
15 a laid down percentage amount to be agreed to by the
16 hospitals as wage increases at any given time, say
17 6 per cent, or some figure out of the air: I am
18 suggesting that area hospitals get together and form
19 their own ceiling and managements are kind of obligated
20 under this system.

21 THE COMMISSIONER: But really, doesn't
22 it seem to appear that the management of hospitals
23 is just as averse to compulsory arbitration as the
24 workers?

25 MR. McENTEE: On the surface it does,
26 certainly to the Bennett Commission, the Ontario
27 Hospital Association presented a brief.

28 THE COMMISSIONER: Why do you suppose
29 they are so afraid of it?

30 MR. McENTEE: Of compulsory arbitration?

1 Because of its uncertainty.

2 THE COMMISSIONER: Uncertainty, certainly
3 in a plus condition rather than a minus.

4 MR. McENTEE: Yes.

5 THE COMMISSIONER: Because if they
6 were sure it was minus they would accept it very
7 agreeably.

8 MR. McENTEE: I would think so.

9 THE COMMISSIONER: So they are afraid
10 of independent judgement.

11 MR. McENTEE: I suppose so.

12 THE COMMISSIONER: Well, in every other
13 form of dispute in society we have the issue resolved
14 by independent judges. What is the justification for
15 abandoning it here when this work really is the result
16 of community action? You don't have to have hospitals.
17 I remember very well in my own life where a hospital
18 was something that you looked forward to but didn't have
19 at all. Your hospital was your home. That is where
20 your medical attention was given. Now, the public
21 here creates a hospital and for that, there is very
22 considerable taxation involved. The community has to
23 contribute to the maintenance of hospitals. They are
24 not in there for the purposes of profit at all: They
25 are for purposes of services to the community and
26 since the community does make a substantial contribution
27 to the very existence of that hospital and the offices
28 which it opens to people who are looking for work,
29 why shouldn't the public have something to say in the
30 way of independent judgement of what the costs of

1 maintaining it should be? That is the thing that
2 puzzles me.

3 MR. BRADSHAW: Could I not say
4 something here? This, I find a little bit surprising.
5 We are talking about here, that in my case, my wage
6 fee should be set by an independent third party. I
7 find this kind of strange, really, when the industry,
8 or the profession that you are a part of, the legal
9 profession, unilaterally sets their wage fee. This, to
10 me, is very strange.

11 THE COMMISSIONER: Certainly, but they
12 have no way of compelling them. If a charge is made
13 it is either paid or the undertaking of service doesn't
14 come into existence. But, you see, in any event after
15 the work is done, these legal fees are subject to
16 taxation. In every case the client desires, he goes
17 before an officer of the court and the person who
18 renders that bill must justify it or it is struck out
19 or reduced. But apart from that altogether, these
20 are public services. The idea of a strike, of a
21 compulsion to force an employer to increase the return
22 that he gives to his workers, arose obviously, as you
23 know, just as well as any of us know, in the condition
24 of competitive purpose of making profits. Hospitals
25 are not profit-making at all. Hospitals are services,
26 public services, and as far the people who desire
27 to go into those services, nobody of any intelligence
28 would ask that they be asked to work at a lower level
29 than the people who go into that service - all things
30 considered.

MR. BRADSHAW: Surely all these things -

MR. BRADSHAW: But surely these same
y to the medical profession as a whole.
surely in the same position; he doesn't
his request for wages to anybody.
own.

MR. POLLOCK: They aren't in the wage

1 business, though. It is not wages.

2 MR. BRADSHAW: Well, it is fees, the
3 same thing. Why are they not subject to a second and
4 third party as to the establishment of the wage?

5 THE COMMISSIONER: Well, that brings
6 in another question: How far should we all consider
7 the social benefits that are now being conferred upon
8 us in the form of pensions, in the form of medicare,
9 in hospitalization, which is being paid for by a sort
10 of general taxation which the healthy person pays and
11 which the sick person doesn't? How are we to adjust
12 those in connection with the individual demands of the
13 workers in groups?

14 MR. McENTEE: I think if I may, Mr.
15 Chairman, you know, your question implies that you are
16 going to solve the whole 100 year, or 150 year, history
17 of mistreatment of employees in hospitals with one
18 simple little sentence, and there are so many ramifica-
19 tions, it is something that we cannot just say, "Yes",
20 or "No" to, based upon the premise of what you said.
21 I do not want to go into a long diatribe about this
22 because it is traditional. I am sure you are well
23 aware of the treatment of hospital employees in the
24 past. In effect, we have been subsidizing the hospital
25 movement and when you take this into the arena of a
26 supposedly, to use your words, impartial, competent
27 tribunal, first of all, you have got to consider that
28 they are not partial: They have a vested interest
29 because they also are the public and the question is,
30 are you prepared to raise your tax rates to do what is

1 morally right in this case. The average person says
2 "No".

3 We had an interesting case, if you wish
4 I will mention it ---

5 THE COMMISSIONER: Yes, certainly.

6 MR. McENTEE: We mention the hospital
7 where at the arbitration board we had the chairman of
8 the arbitration board recommend a wage in the hospital
9 that was less than the minimum wage.

10 THE COMMISSIONER: You selected one
11 member of the board, I suppose?

12 MR. McENTEE: Nevertheless, in the
13 absence of agreement the chairman has the sole right
14 to declare.

15 THE COMMISSIONER: That is true.

16 MR. McENTEE: So that you wonder why we
17 don't just naturally accept these things.

18 THE COMMISSIONER: Now, when did that
19 take place?

20 MR. McENTEE: The board hearing took
21 place last July and the report was received, strangely
22 enough, in November.

23 THE COMMISSIONER: Is that one of those
24 three that you mentioned that went to compulsory
25 arbitration?

26 MR. McENTEE: Actually, no. There are
27 four. This is another one I had forgotten, and this
28 was up north. To simply imply that you are going to
29 get justice under a compulsory arbitration board is
30 an oversimplification. It depends upon impartiality and

1 it does depend upon competence and going in, I would
2 say that 99 per cent of the people who would sit on
3 boards are not impartial and they are not competent,
4 even including you and I.

5 THE COMMISSIONER: When you say that
6 they are not impartial, you mean they have a partiality
7 for the public. If that is so, why do not managements
8 select them freely?

9 MR. McENTEE: Because you don't know
10 the temper of the person whom you choose and how he is
11 going to make his decisions. There has only been one
12 sensible decision, if I may, in arbitration, and that
13 was in a London case. I believe it was Professor
14 Harry Arthurs who took 9 different standards to determine
15 what was the criteria upon which he was going to base
16 his judgement. Rightly or wrongly, he accepted some
17 of those 9 and rejected others and from those 9 points
18 which they had considered, they drew up a formula and
19 eventually arrived at a decision.

20 Now, I say that the system he attempted
21 to use was fair but there was one problem with the
22 system, that it always revolved down to the one basic
23 thing - what are other hospitals paying that have not
24 bothered going to compulsory arbitration? And regardless
25 of whether they were fair or just rates, impartially
26 set and in keeping with the rest of society or not,
27 those were the things upon which he hinged his case.
28 I have made this statement before. At one time I
29 understand there was a law on the statute books of
30 one of the provinces which said - this is back around

1 1910 - "when two cars approach an intersection at
2 right angles, they both shall stop and neither one
3 shall start up until the other has left". That is
4 exactly what is happening with arbitration boards in
5 hospitals. No one is making progress. If this is
6 going to hinge upon your contribution to society, what
7 you are going to take out of it, arbitration boards
8 haven't got the message because hospital employees
9 who certainly perform a very meaningful service, are
10 not being rewarded in relationship to that.

11 THE COMMISSIONER: You think they are
12 not and I do not know any criterion that really will
13 tell you whether you are right or wrong, I mean, whether
14 it is sound or unsound. I would like to have you, if
15 you can, suggest the criteria which can properly be
16 applied and which may be specific and workable.

17 MR. McENTEE: You ask a very large
18 question but I certainly think that it must be relative
19 to community averages to begin with, which are largely
20 ignored by arbitration boards, rather than other
21 hospitals. I think to give you one of the best cases
22 is to take a registered nurse. The rate in Toronto,
23 I believe the starting rate is \$100 a week. Now, you
24 know that industry-wise there are many girls working
25 in factories who make beyond that with much less
26 education and must less responsibility. So, I can
27 mention this off the top of my head. You get down to
28 orderlies, registered nurse's assistants and other
29 people performing very valuable functions, take a
30 laboratory technologist, on the average he is making

1 from somewhere around \$100 to \$115 a week. If that
2 same person had put an equal amount of training into
3 some machine handling of some sort, he would be making
4 \$50 or \$75 a week more.

5 THE COMMISSIONER: How do you determine
6 in any grade of skill, its relation to the monetary
7 reward? You are a technician in one branch, I am a
8 technician in another, Mr. Pollock is a technician in
9 another one. How are you going to determine the
10 differentials if there should be any differentials in
11 the rewards of such skills?

12 MR. McENTEE: I don't know, but I
13 suggest it is not going to come about through government
14 intervention in any form, and I suggest that compulsory
15 arbitration is not going to solve it nor has it made
16 an approach toward starting to solve it.

17 THE COMMISSIONER: It has not had a
18 chance yet.

19 MR. McENTEE: It has been in for two
20 years.

21 THE COMMISSIONER: And you have had
22 four, three of them, or at least half of them were
23 accepted.

24 MR. McENTEE: There have been many
25 more held by other unions which also did not get off
26 the ground. Compulsory arbitration boards have tended
27 to operate by precedent and you can't, in this arena,
28 operate by precedent when you are trying to rectify
29 injustice. You have got to regard each case on its
30 own merits.

1 THE COMMISSIONER: The trouble is that
2 most of us speak - certainly the advocates of it - speak
3 from their own point of view of interest and when you
4 say a thing is unjust, it is because on your standards
5 it is unjust. Now, what are your standards? That is
6 the first question.

7 MR. McENTEE: My standards are rectifying
8 the wrong where 50 per cent of the hospital workers in
9 Ontario coming within our jurisdiction, take home less
10 than \$60 a week. In fact, the majority of them, when
11 they get into the smaller communities, take home around
12 \$50 a week. That is wrong.

13 THE COMMISSIONER: Now, who are they
14 that do that? What are, say, their ages, and the work
15 they do - \$50 a week?

16 MR. McENTEE: The ages are a composite
17 number of ages. You can't say.

18 THE COMMISSIONER: They may include
19 a father of a family?

20 MR. McENTEE: Most definitely.

21 THE COMMISSIONER: And he is asked
22 to work there at \$50 a week?

23 MR. McENTEE: To take home \$50 a week.

24 THE COMMISSIONER: What do you mean
25 by that?

26 MR. McENTEE: The take-home pay after
27 taxation, union dues, pension contributions and whatnot.
28 The money upon which they must live and maintain
29 the household.

30 THE COMMISSIONER: Are there any to

1 that extent in this city?

2 MR. McENTEE: The City of Toronto?

3 Very slightly above it, yes, there are people in the
4 City of Toronto.

5 THE COMMISSIONER: What is their work?

6 MR. McENTEE: I would say housekeeping,
7 cleaners in some of the smaller hospitals, male cleaners
8 I am talking about - heads of families. There are
9 also, of course, women in the main, apart from
10 registered nursing assistants, who will be in this
11 area and they may be heads of families, divorced,
12 separated.

13 THE COMMISSIONER: What are their
14 working hours?

15 MR. McENTEE: 40 hours a week, 8 hours
16 a day on the average.

17 MR. POLLOCK: What is their salary
18 gross?

19 MR. McENTEE: You are asking me about
20 the City of Toronto now?

21 MR. POLLOCK: Well, I don't know what
22 income tax bracket it puts them in, I don't know what
23 their pension plan deductions are and I don't know
24 what their union fees are. So, if you can tell me
25 they have over \$50 take-home pay, what is the gross?

26 MR. McENTEE: I would say, roughly,
27 anywhere from \$3000 for the lower paid male hospital
28 worker, up to about \$3600 for the equivalent in its
29 classification, perhaps \$3800.

30 MR. POLLOCK: Now, in industry - I don't

1 mean by the term "industry", the organized General
2 Motors plant or anything like that, I mean in the
3 average non-hospital enterprise - what does a janitor
4 or person on a cleaning staff get who would be perform-
5 ing the equivalent function of this particular person
6 in the City of Toronto?

7 MR. McENTEE: If we were to take a
8 janitor, we will say, who works --

9 MR. POLLOCK: I don't want to use the
10 term "janitor" as a term of art.

11 MR. McENTEE: Let us say he is the
12 equivalent to a cleaner in a hospital, take your
13 street cleaner in the City of Toronto. I believe that
14 he gets \$2.51 an hour, which is \$100.40 a week. Now,
15 I might be wrong on the rate but I am certainly not
16 drastically out. I believe it is \$2.51.

17 MR. POLLOCK: Is that the average?

18 MR. McENTEE: Throughout all the
19 metropolitan area, yes. Now, in industry, I would
20 say generally in the City of Toronto, it would run
21 the gamut anywhere - for a labour rate - anywhere from
22 2.10 to 2.75 and again I am only approximating.

23 MR. POLLOCK: There is nobody making
24 a dollar an hour?

25 MR. McENTEE: Yes there would be.
26 You asked me for an average. In some of the non-
27 unionized smaller industries employing new Canadians,
28 perhaps, who have not yet had a chance to learn the
29 customs and the wages of the country, yes, there would
30 be.

1 THE COMMISSIONER: Well, where are
2 the hospitals which you have in mind when you say that
3 50 per cent of them are receiving, say, \$50 a week?
4 Are they in cities or in outlying districts?

5 MR. McENTEE: I would say most of
6 them would be in the smaller communities. There are
7 approximately 300 hospitals in Ontario and once
8 we take out the strip from Windsor, say, through to
9 Oshawa and take out the City of Ottawa, basically,
10 except for small isolated areas throughout the province,
11 particularly in the northland, this would prevail.
12 In small communities too, towns of, say, 5000 people --

13 THE COMMISSIONER: Well, what is the
14 smallest centre that will have any hospital facilities
15 at all?

16 MR. McENTEE: Well, you can't say this.
17 You can take the town of Kincardine, which I believe
18 year-wise only has about 200 people. During the tourist
19 season there are a great many more but they actually,
20 are to cover highways and so on in the area and summer
21 resorts. They would be a relatively low wage area,
22 I believe.

23 THE COMMISSIONER: How is the cost of
24 living in these small communities?

25 MR. McENTEE: It costs just as much
26 for bread and milk and probably more. Rent would be
27 less, clothing would be the same but whether they live
28 by our standards, I am not prepared to say, but within
29 25 miles of Toronto - I am sorry, within about 40
30 miles of Toronto I am currently negotiating in a

1 hospital where we have girls who are getting \$42 a week
2 and men who are getting much less than \$60 a week.
3 Unfortunately, I did not bring those figures with me.
4 Management has agreed on a 2 year contract to raise the
5 \$42 girls up to \$53 and the \$60 men up to, I believe
6 it is around \$70, within a two-year contract - not
7 immediately.

8 THE COMMISSIONER: Take the \$42, you
9 spoke of girls. What would their ages be?

10 MR. McENTEE: A cross section of
11 society - anywhere from ---

12 MR. POLLOCK: Old girls included.

13 MR. McENTEE: Probably an average
14 would be the age of 45.

15 THE COMMISSIONER: And what work would
16 they do?

17 MR. McENTEE: Housekeeping maids, aides,
18 dietary aides, making beds, cleaning, dusting. I think
19 the original point which brought about this discussion
20 was: Were we getting justice under compulsory
21 arbitration or is compulsory arbitration working? And
22 I said, on the surface it appears to be but you
23 negotiate an agreement today - we negotiated what we
24 considered to be an excellent agreement five months
25 ago in the City of Hamilton. It was an excellent
26 agreement by other hospital standards. It has been
27 far eclipsed by other hospital agreements and is now
28 obsolete and yet, it is a two-year contract. To get
29 any kind of an agreement in hospitals by direct
30 negotiations, you must take at least a two-year agreement

1 nowadays, to get a decent offer on the table. By
2 the end of two years you have come from number one
3 position at the head of the list down to about 40th,
4 50th or 60th.

5 THE COMMISSIONER: Well, be a little
6 more concrete about that. Take the question of wages.
7 Now what is the difference in the wage that was
8 realized in that agreement and the wages that have
9 superseded it?

10 MR. McENTEE: A basic classification
11 in hospitals is the registered nursing assistant. We
12 negotiated \$77 in this case. Registered nursing
13 assistants have been negotiated since that time, up
14 to \$91 within 200 miles of the same community.

15 MR. POLLOCK: That is gross?

16 MR. McENTEE: That is gross.

17 MR. POLLOCK: You say you aren't getting
18 justice, you don't think you are going to get justice
19 under compulsory arbitration. Are you getting justice
20 under collective bargaining?

21 MR. McENTEE: To a degree.

22 THE COMMISSIONER: Those are the very
23 rights you are criticizing, under collective bargaining.

24 MR. McENTEE: You see, there is the
25 very point, we are talking about two socially conscious
26 communities with socially conscious boards of directors
27 of hospitals who always have pioneered in the way of
28 wage raises for their employees. I can isolate, out
29 of 300 hospitals and say that perhaps we do have 20 or
30 25 of them who are good managements and who will, on

1 their own hook, sit down and discuss each, any and every
2 problem with you.

3 THE COMMISSIONER: That shows you
4 really, that human beings can be independent of their
5 particular interests, they can see things objectively,
6 they can see the position in which your clients, if I
7 may call them that, are placed as well as the people
8 for whom they act, that is the taxpayers. So you, by
9 that very admission, justify the claim that you can
10 have legitimate and fair-minded determination by
11 arbitration.

12 MR. McENTEE: But the point is that
13 they are very much in the minority and we did not
14 arbitrate those disputes, but negotiated them.

15 THE COMMISSIONER: Of course not, and
16 therefore, you can't deduce that compulsory arbitration
17 is unfair when you have never given it a real trial.

18 MR. McENTEE: I can't adopt the theory
19 that there goes the army marching by and my son is the
20 only one in step, just because we have got a couple
21 of good settlements.

22 THE COMMISSIONER: What is the applica-
23 tion of that analogy?

24 MR. McENTEE: Well, because we happen
25 to get two good settlements, this means that compulsory
26 arbitration is working and that is not true.

27 THE COMMISSIONER: We go on by
28 experimentation in this life and we try today to see
29 what is suitable for today and tomorrow we may be
30 able to see that it isn't suitable, but if you don't

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1 try a thing, you are not in a position to condemn it.

2 MR. McENTEE: Well, we are certainly
3 in a position to condemn it by the fact that we have
4 had some lousy awards.

5 MR. POLLOCK: I think perhaps the
6 position you made earlier, as far as the nature of the
7 people is concerned, I don't think the cream, if I can
8 use the term, of the persons skilled in this area have
9 been selected in all cases and even if they have, they
10 have not been supported by the type of research facility
11 that is required in this area.

12 MR. McENTEE: That is right, very much
13 so.

14 MR. POLLOCK: So your quarrel, in some
15 measure, is against not so much - I hesitate to put
16 these words in your mouth - not so much against the
17 principle but against the application.

18 MR. McENTEE: You are putting words in
19 my mouth.

20 MR. POLLOCK: It appears from what you
21 say that if your position is as reasonable as you make
22 it - and I don't quarrel with the fact that there
23 aren't people working in the hospitals who are under-
24 paid, but if you can demonstrate that to me, you can
25 certainly demonstrate it to smarter individuals than
26 I am and with greater facility.

27 MR. McENTEE: Unfortunately, though,
28 you are independent-minded men and legislators are not.
29 It is much easier to get a law on the books than to get
30 one rescinded as we have found out from past experience.

1 May I comment? This is a most interest-
2 ing and stimulating discussion, but it does not cover
3 the point that we were making on compulsory arbitration.
4 We did say that we will carry our argument about
5 compulsory arbitration to the proper source. I think
6 that you are attempting to get us argumentatively, and
7 wisely perhaps, to agree, which we don't do, with
8 compulsory arbitration. But, as you brought the question
9 up, there are some unworkabilities and unwieldinesses
10 to the present system, one of which is this, if I may:
11 You go through the regular rote of negotiation, the
12 same as an industry, you go through at least 35 days
13 of bargaining and having completed that, or continuing
14 on at any time after 35, if you apply for conciliation,
15 the officer comes in and if he can't solve the dispute,
16 the present practice of the Minister of Labour is to
17 bypass the conciliation board, although it is contained
18 in the Act. Having bypassed the conciliation board,
19 theoretically your position is now that under any
20 procedures you go on strike. But you look forward now,
21 "Well, we can't resolve the dispute, we have tried by
22 ourselves and we have tried with the conciliation
23 officer, so let us get to the Board and resolve our
24 dispute". But the Minister and the Act then direct
25 that you bargain for a further 35 days together.

26 Now, this is a most meaningless thing
27 and in my experience, in each case, the management
28 and the union have conspired to appear to meet because
29 it serves no useful purpose and in one particular case
30 we solved two disputes during that time of a number we

1 were taking to arbitration, one of which was: How
2 many bulletin boards are we going to have in a hospital?
3 And the other was: "We have agreed to 9 stewards, in
4 what department will they be located?". Those were
5 the two issues we resolved in 35 days.

6 How much more meaningful it would have
7 been had we proceeded directly to compulsory arbitration
8 and resolved the disputes as they were without the
9 delay?

10 THE COMMISSIONER: I may be displaying
11 my ignorance but really, would you take a question of
12 whether you have one or two bulletin boards to
13 arbitration?

14 MR. McENTEE: No, but this was not the
15 case. Once it was decided that the monetary things
16 were going to arbitration, management at that stage
17 of the game, you might as well say refused to discuss
18 things any further. There was no point in their mind,
19 leave everything for the arbitration pot and this is
20 the thought today, "We have got a dispute between us,
21 throw everything into the pot".

22 MR. POLLOCK: In those circumstances
23 the union, I take it, and management would have agreed
24 to the waiver of this 35 days?

25 MR. McENTEE: In every case that I have
26 encountered, yes, both sides would have agreed to the
27 waiver and I think that when it reaches the point
28 where you can't seem to get any further, both sides
29 automatically agree, "Let's leave it to arbitration"
30 and then you force them into the position of going

1 through a meaningless period.

2 Now, recognizing - and let me preface
3 my remarks by saying that recognizing I am opposed to
4 the system, while I am waiting for it to be rescinded
5 at the same time it could be tidied up and I think
6 you have got to go back to our basic tenet. There
7 are a number of factors that go hand-in-hand - this
8 applies to nearly all public service, in fact it does
9 apply to all public service and industry too - nowhere
10 in the Act is it a requirement of the employer to
11 bring responsible people to the bargaining table.

12 THE COMMISSIONER: What do you mean
13 by "responsible people"?

14 MR. McENTEE: Responsible persons.
15 They send directors and so on.

16 THE COMMISSIONER: Is your committee
17 authorized to settle finally?

18 MR. McENTEE: No, but we are in a
19 position to make choices which we present to the
20 membership. If I may, if you take a municipality
21 under the Municipal Act, only the council can make
22 decisions. They have a quorum of certain committees,
23 for instance the personnel committee which would
24 make a decision which they could send to council
25 for ratification, but if you have the personnel
26 director there and the question comes - let me be
27 absurd, if I may - the union wants 10 bulletin boards
28 and he has been instructed to offer 8 and we say,
29 "We will compromise at 9", he hasn't got the authority
30 to say "All right, this sounds sensible". If you took

1 three councillors, they could say "This sounds sensible"
2 and send it on to council.

3 THE COMMISSIONER: Well, neither do
4 you have the right to say that?

5 MR. McENTEE: Yes, we do.

6 MR. POLLOCK: In other words, he ought
7 to be more than just a communications member?

8 MR. McENTEE: It ought to be a
9 responsible person because the Act says that members
10 of the executive of the union have to be at the
11 bargaining table and representatives from the union have
12 the authority to sign a memorandum. The spokesmen
13 for management do not.

14 THE COMMISSIONER: Well, in that
15 memorandum, those who are actually negotiating think
16 this would be fair but it is referred to the body in
17 each case.

18 MR. McENTEE: Yes, but once you get
19 into a conciliation officer stage, this is a point.
20 I have seen conciliation officer after conciliation
21 officer send the personnel manager back and say, "You
22 bring your council members", or "You bring somebody
23 representative of management to the table". That is
24 point number one. Point two, if I may, just lightly
25 running over this: After you get the responsible
26 people at the bargaining table is the fact that nowhere
27 in the Act does it say "You must meet". Theoretically,
28 we could serve notice on a management today, no meetings
29 are held and 35 days later you apply for conciliation,
30 the conciliation officer has one meeting with the

1 parties, you could go to the board which is your
2 second meeting and you could go on strike, theoretically.
3 There is no compulsion under the Act to meet. So
4 there is something that should be rectified.

5 THE COMMISSIONER: Therefore, that is
6 you haven't that general obligation to bargain?

7 MR. McENTEE: Either the union or
8 management, but the union, with its natural desire to
9 bargain, is ready, willing and able.

10 THE COMMISSIONER: But the statute
11 does not require it.

12 MR. McENTEE: It doesn't require any
13 number of set meetings at all.

14 THE COMMISSIONER: But has it a general
15 application like in the Labour Act?

16 MR. McENTEE: It says "Shall attempt"
17 to bargain in good faith" but the interpretation of
18 that has never been given.

19 THE COMMISSIONER: "Attempt to bargain".

20 MR. McENTEE: Yes, "Make every reasonable
21 effort".

22 MR. POLLOCK: But it says, "The Labour
23 Relations Act applies to any hospital employees to
24 which this Act applies" - the trade unions and so forth
25 and that Act will purport to act for and on behalf
26 of any such employees and employers of any such
27 employees.

28 MR. McENTEE: I was not making my
29 observation at hospitals. I was making it, generally
30 speaking, that the Labour Relations Act which governs

1 the free compulsory arbitration of hospitals nowhere
2 sets out regarding any industry or any public service
3 that they must have responsible people at the table
4 or that they must meet a set number of times.

5 Now, there is a third factor that comes
6 into this. Going into bargaining you must make the
7 assumption that the people in unions naturally have
8 a desire to sit down and get a wage increase or get
9 improvements in a contract language, so they are
10 prepared to meet. Many times we run into another
11 problem and that is that busy managements can only
12 spend perhaps one hour every two weeks or so. This
13 means, particularly if you take a city council and
14 they say "All right, our next meeting will be on June
15 the 12th", then you go there on June the 12th and they
16 are supposed to meet at 10:00 o'clock, they come in
17 at a quarter after 10:00 after completing some business,
18 they meet you until a quarter to 11:00 or 11:00 o'clock,
19 and gradually they run off to other commitments and
20 really it is meaningless.

21 THE COMMISSIONER: Don't they designate
22 somebody who can discuss details with you?

23 MR. McENTEE: I would say the majority
24 of employers do not sit down and bargain at a stretch
25 longer than 3 or 4 hours at any time and during the
26 first 35 days of negotiations seldom meet more than
27 once a week and I think this has got to be wrong.

28 THE COMMISSIONER: By the way, I put
29 this to you. In the course of negotiations you do
30 furnish yourselves with certain statistical matter to

1 justify the position that you are taking.

2 MR. McENTEE: Definitely.

3 THE COMMISSIONER: Are those made
4 public?

5 MR. McENTEE: Never.

6 THE COMMISSIONER: Why not?

7 MR. McENTEE: I don't establish the
8 system but I don't think during negotiations it is
9 in the best interest of the parties to get public
10 pressure on, at the moment, a private dispute until
11 it reaches the dispute stage, because I think that
12 you throw this thing into the political arena at
13 the wrong time.

14 THE COMMISSIONER: It is not a
15 political thing.

16 MR. McENTEE: In public service it
17 is.

18 THE COMMISSIONER: You are asking
19 really, the representatives of that local public to
20 consider your position, say, from the point of view
21 of money returned. They are the people who are
22 going to provide that. They are the taxpayers. Why
23 not inform them of the realities of your case to
24 get their support? There may be some reason against
25 it but I would like to know what that reason is.

26 MR. McENTEE: It is not a case of
27 that but you may go into bargaining with 150 different
28 things. The public is relatively uninformed and
29 unaware of the significance of each and every
30 individual thing that is going to be discussed.

1 THE COMMISSIONER: Do you think they
2 are all equally insignificant?

3 MR. McENTEE: Of course they are not.

4 THE COMMISSIONER: I am concerned with
5 those that are vital and the most vital is the money.

6 MR. McENTEE: No, not at all.

7 THE COMMISSIONER: Now, is that sound?
8 Is that the reality?

9 MR. McENTEE: No, there are a number
10 of other factors - seniority provisions in agreements,
11 for instance, the union security clause in the agreement
12 - there are a number of other factors which just as
13 often as wages go to conciliation and what have you.

14 THE COMMISSIONER: They may but all
15 I say is that the primary concern, the most important
16 concern, the one that you have emphasized and re-
17 emphasized is the monetary return.

18 MR. McENTEE: Right.

19 THE COMMISSIONER: The others are
20 important, I agree, but that is of paramount importance.

21 MR. McENTEE: To the public it is, yes.

22 THE COMMISSIONER: And it has always
23 puzzled me why you don't inform the public of the
24 realities on which you claim that is inadequate.

25 MR. BRADSHAW: I think there is a problem
26 inherent in this and that is if you are going to go
27 to the public with your case, you have to convince the
28 news media in your area or you are going to lose your
29 case. If the newspaper doesn't back you, you haven't
30 got a chance.

1 THE COMMISSIONER: If the newspaper
2 publishes what you present to it, that is all you can
3 ask, isn't it?

4 MR. McENTEE: Do you think they would,
5 Mr. Chairman? There is nothing newsworthy in the
6 fact that a union has asked for 20 or 30 per cent.
7 They might give you a small squib on page 20 but during
8 negotiations the fact that you have been discussing
9 that and management has countered with an offer of 10
10 per cent is of no significance. But if the union has
11 taken a strike vote because they can't get the 20 per
12 cent, this makes news, or if management has said,
13 "All right, we will give you 20 per cent", this makes
14 news. I am afraid you underestimate the editorial
15 staff of any newspaper that they would print things
16 of such monumental insignificance as the fact that one
17 out of 100 unions or 200 local unions in your town
18 was asking for some particular thing.

19 THE COMMISSIONER: You may be right
20 but I would like to have some evidence of it.

21 MR. McENTEE: Then, may I continue?
22 We talked about the lack of responsible people at the
23 negotiating table, then the lack of meetings, then
24 the very limited time within which such meetings are
25 held and our brief suggests that if you are going to
26 get into disputes - because this really, as I under-
27 stand it is the significance of this Commission - is
28 to attempt to find ways or means of forestalling
29 strikes or labour disputes - we felt ---

30 MR. POLLOCK: Both, it is to forestall

1 and to settle.

2 MR. McENTEE: Right. Conciliation
3 officers in the past have played a very valuable role,
4 probably the most significant role of any section
5 of the Labour Relations Act, in solving disputes
6 because their function of mediator has always been
7 traditionally accepted as impartial and treated with
8 respect and at no time, to my knowledge, have we ever
9 had a difference of opinion with a conciliation
10 officer. I think, though, the problem is you force
11 the parties to have a dispute before you call him in
12 to mediate and I think it much better to fit him into
13 the scheme of things when the dispute is starting to
14 shape up, to attempt to get the parties effectively
15 together for compromise. This, of course, would call
16 for a much larger staff of trained people in the
17 conciliation branch but I think if you head this thing
18 off when it is a small dispute and resolvable, it is
19 much better than to come in after the event and try
20 to patch it up, which is a most difficult task. The
21 conciliation officers have a reasonably good batting
22 average, but they are fighting a case which is
23 difficult for them to fight. So piecing this thing
24 together and ignoring the compulsory arbitration
25 section of this thing, of which we only mention one
26 small detail, I think if you follow this continuity
27 through, there is more chance of forestalling labour
28 disputes before they loom out of proportion and become
29 so big they are insoluble.

30 THE COMMISSIONER: Mr. McEntee, may I

1 ask if you have ever had experience yourself in this
2 field of employment? Have you personally been employed
3 in any public work?

4 MR. McENTEE: I have sat as a member
5 of conciliation boards, if that's what you mean.

6 THE COMMISSIONER: No, I don't mean
7 that. Have you ever been in public employment?

8 MR. McENTEE: No, I have not.

9 MR. POLLOCK: If you provide for the
10 early injection of conciliation services into the
11 settlement of negotiation procedures, do you have to
12 make it mandatory or do you have to make it so that
13 both companies will feel there is something to be
14 served by having been called in earlier? Do you think
15 both of the parties to any dispute are of the same
16 mind as you are today that conciliation services
17 ought to be, in some cases, made available earlier?

18 MR. McENTEE: I don't think it has
19 ever really been considered. I don't think at any
20 time it has occurred to them because, normally both
21 sides welcome the conciliation officer. I am suggest-
22 ing that his function as a mediator would not be
23 disapproved by either party because conciliation
24 officers, to me, have always used a tremendous amount
25 of horse sense.

26 MR. POLLOCK: Horse what?

27 MR. McENTEE: Horse sense. They have
28 never intruded. When negotiations between the parties
29 appear to have been going well, I have seen them sit
30 for as long as half or three-quarters of an hour without

1 saying a word and just taking notes. I believe that
2 they would play a very inconspicuous part when not needed
3 and certainly right at the front when desired.

4 THE COMMISSIONER: You don't imply by
5 that reference to their contribution that there is
6 no horse sense in either of the main parties?

7 MR. McENTEE: No.

8 MR. POLLOCK: Perhaps we could take a
9 short break.

10 ---Short recess.

11
12 MR. POLLOCK: I think one of the other
13 points you make in cleaning up the legislation without
14 accepting it, I guess it is an argument which is
15 without prejudice to your objection to the legislation
16 so we will deem everything you say in that light, in
17 cleaning up this you suggest that the effective date
18 of the agreement, ought to be a one-year agreement, I
19 take it from what you say.

20 MR. McENTEE: Are we talking of
21 compulsory arbitration?

22 MR. POLLOCK: Yes.

23 MR. McENTEE: Yes.

24 MR. POLLOCK: And that retroactivity
25 ought to take into account that one year, that is to
26 say, if you take 10 months to negotiate and a month
27 to go to arbitration, and the award is made at the
28 end of the eleventh month from, say, the previous
29 agreement, then you have an agreement for one year
30 that is retroactive to the beginning of negotiations

1 which will be in effect for one month.

2 MR. McENTEE: No. Because under the
3 Act the parties can agree upon the term of the
4 agreement and it is only in the absence of agreement
5 as to how long the agreement is going to run that the
6 board mandatorily, or the Act mandatorily, makes it
7 a one-year agreement.

8 MR. POLLOCK: It doesn't make it a one-
9 year agreement.

10 MR. McENTEE: Yes, it does.

11 MR. POLLOCK: Well, it doesn't say
12 one year from when.

13 MR. McENTEE: That is right but the
14 point is, by statute, the agreement, in the absence of
15 consent, is for a one-year term and I am saying that
16 it also says that the parties can agree upon the
17 length, which I presume they do in the majority of
18 cases so that what you say about the one month of
19 actual contract is not necessarily true. I am sure
20 it would exceed that in the majority of cases and ten
21 months would be too long also to use as an example.

22 MR. POLLOCK: Well, we have had
23 representations by people who are involved in this
24 thing who said that the negotiations took 10 months
25 in the hospital area.

26 MR. McENTEE: Not in every case.

27 MR. BRADSHAW: That is true enough but
28 what we are trying to do is force the parties to get
29 it done sooner and instead of this happening a tendency
30 to get them through the bargaining much sooner.

1 MR. POLLOCK: I assume that when the
2 arbitrator makes his decision he considers the
3 comparable economic situation that exists at the time
4 that he is making his decision or is he fixed to a
5 date when the negotiations began? If, for example,
6 he is looking at comparable wages in industry, does
7 he look --

8 MR. McENTEE: He looks at whatever is
9 presented to him in the way of research which usually
10 is up-to-date material.

11 MR. POLLOCK: So his decision is really
12 at a time when it is pretty current, the basis of
13 his decision is current, the research.

14 MR. McENTEE: Yes, and no, because in
15 one case that I am aware of, it took five months for
16 the arbitrator's report to come in and it was no longer
17 current.

18 MR. POLLOCK: That is a delay. Let me
19 take a situation where notice to bargain is given or
20 one agreement expires January the 1st, 1967 and then
21 on July the 1st, you have reference to arbitration and
22 a decision is made in August, August the 1st. Now, on
23 July the 1st, the comparable wages are taken as of
24 July or the end of June, or something like that: They
25 are not referred back to January.

26 MR. McENTEE: That is right.

27 MR. POLLOCK: So that if, for example,
28 the wages that were negotiated in July are retroactive
29 to January, you would probably be in a more favourable
30 position, assuming that the wages are escalating

1 generally, than you would if you took the criteria
2 that were available in January.

3 MR. McENTEE: That is right.

4 MR. POLLOCK: So that, in effect, the
5 currency of the arbitration, of the factors on which
6 the comparison is made, really is not an issue in the
7 present system.

8 MR. McENTEE: That is right.

9 MR. POLLOCK: It is not restricted to
10 the old thing. So what is the harm that arises when
11 you say that a fellow is going to take these particular
12 criteria, project them back so many months and project
13 them ahead so many months?

14 MR. McENTEE: Well ---

15 MR. POLLOCK: He is taking an average
16 that may work out to be in the middle.

17 MR. McENTEE: I think you missed the
18 essential point. Let us take a case of the same
19 agreement opening on January the 1st, which was
20 settled at negotiation, on a one-year agreement in 3
21 successive years: There have been 3 wage increases.
22 The same illustration going to arbitration, which would
23 date the contract from July to the following June the
24 30th, would only have two increases in the three years
25 both for a one-year contract regardless of the retro-
26 activity, and so arbitration, because it takes 18
27 months to get that 12-month agreement, in the long run
28 - and it normally does work out to 18 months for a one-
29 year agreement - normally the people who go to
30 arbitration lose, regardless of its retroactivity.

1 They have only had two increases in 3 years as contrasted
2 with the three one-year collective agreements.

3 MR. POLLOCK: But if in this one year,
4 1964, what they could have got was \$1.50 an hour and
5 then in 1966, a year later, they could have got \$1.75
6 an hour and this year they get \$2.00 an hour, if the
7 decision is made this year and retroactive to last
8 year, then if you average the \$2 an hour, the loss
9 really is not that significant, is it?

10 MR. McENTEE: Yes, it is, because what
11 you are saying is that the person who negotiated the
12 \$1.50 an hour rate now, the other person, by arbitration
13 would get \$1.62½.

14 MR. POLLOCK: Well, he would get more
15 than that. It is \$1.50 and \$2.

16 MR. McENTEE: You said \$1.50, \$1.75,
17 \$2, because it was in July which was the medium point,
18 he would get \$1.62½ to do him until next year and
19 then because the \$1.75 was the current rate in January,
20 in July he would get \$1.87½. The other person, in the
21 meantime, while he was getting \$1.62½ would have got
22 \$1.75 for part of the time and he also would have had
23 \$2 when he was getting \$1.87½, so yes, there is a
24 drastic difference, not only in the retroactivity but
25 in the eventual result.

26 MR. POLLOCK: Would you be satisfied
27 with a rule of thumb that said "The contract will
28 extend into the future as far as it extends into the
29 past"? Let the retroactivity determine how far the
30 contract is going to go ahead.

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1 MR. McENTEE: That would pay management
2 to stall.

3 MR. POLLOCK: No, it wouldn't.

4 MR. McENTEE: It is an inducement to
5 them because you get a 1965 rate in November, we will
6 say, from January 1st, which extends an equal amount
7 of time up to 1967. When the other people were to have
8 negotiated two increases, they have only negotiated one
9 for the whole period of time.

10 THE COMMISSIONER: Have you any
11 economic theory of a perpetual increase in wages,
12 prices, values of every sort?

13 MR. McENTEE: No, and I am very
14 thankful I haven't, Mr. Chairman, because it would have
15 been shot down in flames long ago. I think anyone's
16 theories over the last two or three years would have
17 been shot down in flames, do you not agree?

18 THE COMMISSIONER: You do assume, don't
19 you, at least provisionally, that each agreement shall
20 advance in terms of quantity?

21 MR. McENTEE: Standing on its own feet,
22 yes.

23 THE COMMISSIONER: Of course, the
24 conditions they have in England today have brought that
25 to a halt, haven't they?

26 MR. McENTEE: I don't know. I think
27 England is a very poor example.

28 THE COMMISSIONER: You don't know. Do
29 you mean you are not aware of the legislation?

30 MR. McENTEE: It is not that I am not

1 aware of the legislation; it is that I am aware of the
2 economic circumstances surrounding the country which
3 make it a poor comparison.

4 THE COMMISSIONER: I am simply dealing
5 with the arrest of the wage increase. That has become
6 a fact, for the present, at least.

7 MR. McENTEE: But I don't think that
8 you can make a comparison between England --

9 THE COMMISSIONER: No, I am just asking
10 you about the fact.

11 MR. McENTEE: Yes. Once you start to
12 get a wage freeze and you have a price freeze, there is
13 an assumption that you have some kind of fairness built
14 into this. But I think that coupled with that you
15 have got to regard what were the positions of the
16 parties relative to the overall structure before the
17 wage and price freeze began. If there were a wage
18 and price freeze today, the position of hospitals, if
19 they were maintained in the relative scale of other
20 rates, is not in keeping with their contribution to
21 society so that a wage freeze here would have to be
22 unfair regardless of the price freeze that was coupled
23 with it.

24 THE COMMISSIONER: Oh, yes, I was not
25 suggesting that. I was just speculating that the time
26 may come when this notion of perpetual increase will
27 have to be reconsidered.

28 MR. McENTEE: I don't think it will
29 ever get off the ground with the help of unions. I
30 don't think it will ever get union support: I am sure

1 it won't.

2 MR. POLLOCK: Let me ask you this.
3 Probably, in your experience, you have run across a
4 great number of individuals, both in the labour
5 movement and on the management side of negotiations
6 and judges and all these people. Of all those individuals,
7 from your experience, is there anyone whom you might
8 think could act as a chairman of an arbitration board
9 and understand your position and decide in your
10 interest?

11 MR. McENTEE: I don't think I could
12 make a judgement on it because I have never considered
13 them in that light. I have met several very out-
14 standing people whom I would put into consideration
15 but they are relatively few. The problem has been
16 that they have always had to face - I am relating them
17 all to conciliation board chairmen, or contractual
18 arbitrations, and in doing so, in most cases they were
19 attempting to find a median point rather than regard
20 the case on its merits, not that they weren't right or
21 not that they weren't doing the only thing they could
22 do, but that in trying to approach compulsory arbitra-
23 tion, I think it has to be regarded from a completely
24 different angle.

25 MR. POLLOCK: Well, in your assessment -
26 and I speak now from your view as a union person - your
27 assessment of the reasonableness of your demand as
28 opposed to the offer of the company, you must take
29 into some consideration the reality of things and
30 whether it is a good offer or a bad one. Apart from

1 the fact that all of us want more, there is some
2 judgement that is better than others, a sounder
3 judgement.

4 MR. McENTEE: Yes.

5 MR. POLLOCK: Those type of people -
6 I wonder if, from your experience, you can generalize
7 and say there are some people who have got pretty
8 sound judgement that you would probably trust to
9 reflect your interest without being a partisan.

10 MR. McENTEE: Yes, but they would be
11 very few.

12 MR. POLLOCK: I appreciate they are
13 extremely few. Would you think of those names that
14 are running through your mind if they are names, that
15 management might accept those as well?

16 MR. McENTEE: Not after the first case
17 was heard, they wouldn't. You see, I talked about
18 rule by precedent. We found on contractual arbitration
19 boards that some people tend to take a different view
20 of union security, for instance, or conciliation
21 board chairmen do, some are more liberal on vacations,
22 some are more inclined to take community wages as a
23 standard and you find those people and you suggest
24 them as chairmen and after the first time management
25 has accepted them they don't accept them again. We
26 run into this problem, we have often talked about
27 the over-worked judges in Ontario because of arbitration
28 boards. This is true because the parties continually
29 keep going back to a few people. The rest they have
30 isolated as being either very pro-union or very pro-

1 management.

2 THE COMMISSIONER: I don't quite
3 understand what you mean by saying, as I understood
4 it, that after the first judgement of an arbitration
5 board, management writes a certain person off.

6 MR. McENTEE: Or the union, yes.
7 Depending upon the judgement rendered we find that
8 he is susceptible to certain types of arguments. If
9 he accepts the union point of view too drastically,
10 management will not be prone to accept him again and
11 the same thing applies on the other side of the coin.

12 THE COMMISSIONER: And do you, in your
13 appeal to such a board, set forth the neutral conditions
14 which ought to be kept in mind in the determination,
15 say, of the distribution of the earnings of a company?

16 MR. McENTEE: Well, of course, I don't
17 deal in profit-making industries, so I can't say.

18 THE COMMISSIONER: You are not
19 familiar with that?

20 MR. McENTEE: I was 10 or 15 years ago
21 and we used those arguments at that time. At the
22 moment I am in public service and, of course, it is
23 not a good argument.

24 MR. POLLOCK: It would be a good
25 argument, I suppose, in view of the deficit financing
26 for a decrease.

27 MR. McENTEE: For instance, in
28 communities you will use the tax structure, the
29 revenues of a community, a relative position across
30 the province and so on, debt position, and so on,

1 coupled with community rates in comparison with other
2 communities, comparison with major industries in the
3 community.

4 THE COMMISSIONER: Have you considered
5 the relation of the expanding social services to the
6 question of industrial rewards or community rewards
7 for services?

8 MR. McENTEE: No, and I don't think
9 anyone can, other than in a dream world.

10 THE COMMISSIONER: Why not? You see,
11 all these expenses do come out of a common purse which
12 is the pocketbook of the taxpayer.

13 MR. McENTEE: It depends upon the
14 context of your question. I took it to be have we
15 considered this from the standpoint of what is fair
16 and just and should be the reward. If you meant it
17 as what should the taxpayers have to pay, it is a
18 most difficult question to answer.

19 THE COMMISSIONER: But now we have the
20 principle of free hospitalization. We will soon have
21 medicare. I am not familiar with all the regulations
22 but more or less a social function. We have our
23 pensions now, Dominion-wide, in addition to individual
24 pensions. We have the family allowances, we have
25 unemployment relief, we have others to widows, children
26 and one thing and another. Do you think that any one
27 of those should be considered in isolation?

28 MR. McENTEE: In relationship to what -
29 our position?

30 THE COMMISSIONER: Well, take wages.

1 Are wages to be considered without relation at all
2 to these other social services? I mean, when I say
3 wages, I mean the return of every person, no matter
4 what he is engaged in. Is he entitled to say "I
5 am not concerned with these general, social matters
6 of welfare. I am dealing only with one item and
7 that is what I insist upon to the utmost of my claim".

8 MR. McENTEE: You ask an almost
9 impossible question because sitting as a person who
10 has to negotiate, I have got to consider two factors:
11 What does it cost (you call them my clients) my client
12 to live and, secondly, what is his contribution to
13 society and what should his reward be for that? The
14 arguments you ask me to expound are management arguments
15 and I must dwell upon what is fair and just and what
16 is required. These are the only arguments that are
17 pertinent to my case at the particular moment. If
18 this makes me socially irresponsible, well then I
19 don't take into account the other factors. This is
20 not part of my job. There are other people who must
21 provide the answers.

22 THE COMMISSIONER: I am asking you
23 not in the exercise of your job but in your view as
24 a sort of social observer or a social scientist.

25 MR. McENTEE: I think you overplay
26 your hand when you flatter me like this but I don't
27 think I could answer your question.

28 THE COMMISSIONER: Because those
29 questions are beginning to come up, you know, right
30 at this moment and they are not management questions

1 at all: They are the broadest social questions simply
2 because they all represent the contribution that the
3 individual receives from the total society.

4 MR. POLLOCK: When you listed those
5 two factors that you consider, what it costs a member
6 to live and what he ought to get for his return based,
7 I suppose, on the nature of the function he performs,
8 those are cumulative, aren't they? One has to come
9 first and then once you have got the level that you
10 can live on, then you start talking about what is he
11 really worth. Nobody is worth less than the lower level.
12 Now, in your circumstances, from what you said earlier
13 about the lower wages, \$50, \$40, \$60 a week, it seems
14 that your position is that many of your clients, if
15 I can call them that, have not got up to this first
16 level yet, is that right?

17 MR. McENTEE: That is right and there
18 is another factor, of course, which enters into this
19 and that is the law of supply and demand. Not necessarily
20 exclusively, but to a point, the people we represent
21 are in over-supply.

22 MR. POLLOCK: Do you think we ought
23 to repeal that law?

24 MR. McENTEE: I am willing but the
25 point is that some of the lower paid hospital workers
26 perform tasks - and I mentioned only two or three of
27 the bottom classifications which are easily learned - which
28 are repetitive and require very little education and
29 skill and so they say they are in over-supply and in
30 such circumstances, it is often difficult to achieve

1 what we consider to be a fair, basic minimum for this
2 and because these people exist in nearly every one
3 of our units, they become a basic upon which the other
4 wages are scaled. The overall structure, because of
5 the bottom or basic labour group, becomes distorted as
6 a part of the whole scale of wages in the community.

7 MR. POLLOCK: So the minimum wage
8 ought to be increased, the statutory minimum? That
9 would eliminate that part of that problem?

10 MR. McENTEE: My understanding was
11 that when the minimum wage was brought in before, there
12 were as many as 30 per cent of the basic labour rates
13 in hospitals that had to be raised as a result of that.
14 That might interest you because the minimum wage is
15 only 3 or 4 years old, certainly not too long ago.

16 THE COMMISSIONER: 5 years old. You
17 spoke a moment ago about how much it would take for
18 a person to live but, you see, that involves a
19 determination of a certain scale of living. What have
20 you in mind now for a minimum?

21 MR. McENTEE: We could spend a long
22 time on that, Mr. Chairman.

23 THE COMMISSIONER: I know, but they
24 have had to do it before.

25 MR. McENTEE: I think everyone in
26 Canada ought to be able to, if he so desires, buy a
27 house during his lifetime. Many of our members will
28 never be able to.

29 THE COMMISSIONER: Would that not
30 depend, in large measure, upon where he is living?

1 MR. POLLOCK: And where he wants to
2 buy it?

3 MR. McENTEE: Of course. I said a
4 house.

5 MR. POLLOCK: I think most people
6 could buy a house somewhere in Canada.

7 MR. McENTEE: Let me tell you that under
8 the present standards of N.H.A., the majority of people
9 we represent in hospitals would not be accepted by
10 N.H.A. I think this has got to be wrong. So if the
11 N.H.A. standard were presumed to be fair, it is unfair
12 to our people, or else they are underpaid; one or the
13 other.

14 THE COMMISSIONER: Let us just take
15 that one item. What value of home would you take into
16 account?

17 MR. McENTEE: Where, in Toronto?

18 THE COMMISSIONER: In different places.

19 MR. McENTEE: I would say that it
20 should not be unreasonable, the chap should be able
21 to afford a down payment of \$2500.

22 THE COMMISSIONER: Representing what
23 percentage of the total price?

24 MR. McENTEE: I don't know. This is
25 a guessing game. It is natural that these people want
26 to live reasonably close to the hospital. Most of
27 them don't have cars, they have got to depend on
28 public transportation, but if you were going to say
29 within a distance of two miles of a hospital in
30 Toronto, I would say that judging by the standards of

1 the lower priced homes in Toronto, they should be able
2 to afford somewhere from \$12,000 to \$14,000 homes.

3 THE COMMISSIONER: What about small
4 communities, small hospitals?

5 MR. McENTEE: I don't know the building
6 costs. It is difficult for me to say, but relative
7 to that. This is the problem, I think you approach
8 a very important area. If hospital people - and you
9 make it quite plain where your feelings are - should
10 come under some form of compulsion because they seem
11 to owe some debt to society because of the function
12 they perform, then society also owes them an equal
13 debt in the method of recognizing this. The other
14 members of society usually can accumulate a down payment
15 towards a home. There are other factors. I am
16 personally involved with a great many hospital people.
17 I negotiate for a large number of hospitals. I know
18 that these people are not able to give the things to
19 their children that their children's playmates get.
20 I know that the majority of them do not own cars,
21 usually if they do have such a thing as a television,
22 this is their sole contribution to any extravagance
23 at all, many of them live close enough to hospitals
24 to walk to work, I would not say that they waste money
25 in any way because there is no money to waste, but
26 you never do accumulate money for necessities, such as
27 other members of the community are able to do. This
28 is the thing that when we talk about compulsory
29 arbitration and you ask the question: Is it working?
30 I have got to say, no, because it has not yet, in two

1 years solved these problems. Now you say "Well, you
2 are in a hurry. Give it a little time." But these
3 people have waited so long, it just seems that justice
4 delayed is justice denied too. And I think here to
5 suggest that these people continue to be patient and
6 not have the right any longer to go on strike, although
7 they never took advantage of that, and subject themselves
8 to the whims of an arbitration board, which in the past
9 has never displayed the type of reasoning which would
10 resolve eventually the problem the hospital workers
11 are in, then I am not enchanted with compulsory
12 arbitration and I am much more scared of compulsory
13 arbitration in the midst of an economic slump, what
14 is going to happen.

15 MR. POLLOCK: Do you think that
16 collective bargaining is successful during an economic
17 slump?

18 MR. McENTEE: Generally speaking,
19 industry-wise it is not as good as it is during an
20 economic boom but hospital-wise, in particular, I would
21 say the wages are much more drastically cut, the wage
22 increases are much smaller in relationship to the
23 community average. I don't want to go into long
24 explorations of this thing, but hospital workers have
25 really taken 150 years to get to this position, this
26 is the problem. At one time hospital workers were
27 housed in the hospitals, were fed in the hospitals
28 and really only given spending money and as we have
29 evolved from that type of living, we have never
30 repaid in kind the things that we have taken away from

them, such as their board and lodging. There were a number of hospitals as recently as 15 years ago, still providing the meals for their employees, right here in the community of Toronto, certainly in Hamilton, and there are a number in Ontario today, particularly in the northland, that still provide board or lodging for any employees who want it at a minimal cost.

THE COMMISSIONER: Do you know how many hospitals there were in Toronto 150 years ago?

MR. McENTEE: I would suggest possibly two.

THE COMMISSIONER: Is there any record of that?

THE COMMISSIONER: Oh, there would be, yes. In the City of Hamilton the first one was approximately 1860 during a cholera epidemic, but there had been substitutes for hospitals, particularly among the Catholic order.

THE COMMISSIONER: Yes, those were like pest houses, almost.

MR. McENTEE: That is right and during the cholera epidemic there were actually 3 hospitals started in Hamilton and that is the way most hospitals in Canada were built.

THE COMMISSIONER: But look at the functions that are recognized today as hospital functions. How far back can you go? I don't think it would go 150 years at all.

MR. McENTEE: No, I think you could go

1 back approximately 100 to 110 years for the bulk of
2 the major hospitals in major communities.

3 THE COMMISSIONER: They were confined
4 to a limited number of cases. Today, with almost any
5 sickness, you are rushed to the hospital.

6 MR. McENTEE: That is correct. It
7 might be of interest that approximately one out of
8 every 25 members of the working force works in hospitals
9 today. It takes approximately $1\frac{1}{2}$ hospital employees to
10 take care of each patient today so that if you are
11 in the hospital today, there are $1\frac{1}{2}$ employees looking
12 after your welfare. This is, of course, partly due
13 to the fact, as you point out, that more people are
14 going to the hospital for less serious disabilities
15 plus the fact that medicine has become much more
16 sophisticated and new techniques have been evolved
17 that now make it necessary for large medical centres
18 to be employed which has brought about this change
19 in emphasis.

20 MR. POLLOCK: In the old days, where
21 they would send them to the cemetery, they now send
22 them to the hospital.

23 MR. McENTEE: Quite true and they
24 prolong life and in prolonged life you will have much
25 more illnesses and so on.

26 THE COMMISSIONER: That is adding to
27 our tribulations.

28 MR. McENTEE: It certainly is and it
29 is going to get worse before it gets better.

30 MR. POLLOCK: Well, gentlemen, we are

1 obliged to you for this. There are some aspects of
2 your experience, particular details that we would
3 perhaps like to get from you and if our research people
4 could contact you as to the particulars of your
5 experience in the arbitration and also in these wage
6 scale questions we have discussed this morning in the
7 comfort of your office with your files, I think perhaps
8 you could dig it up.

9 MR. McENTEE: We are quite happy to
10 cooperate.

11 MR. BRADSHAW: Thank you very much,
12 gentlemen.

13 MR. McENTEE: That you.

14 MR. POLLOCK: Here is a communication
15 from the Hydro which is just to be entered into the
16 record.

17 "Ontario Hydro, 620 University Avenue,
18 Toronto 2, Ontario, Canada.

19 May 31, 1967.

20 The Honourable Ivan C. Rand, LLD:

21 Commissioner, Royal Commission
22 Inquiry into Labour Disputes, Room 1417,
23 Parliament Buildings, Toronto 2, Ontario.

24 Dear Sir: The Chairman submitted to
25 you on January 18 the official Brief of
26 the Hydro-Electric Power Commission of
27 Ontario in respect to labour relations
28 in the construction industry.

29 We wish to advise that while this
30 officially represents the Commission's

1 point of view, we do not desire to
2 expand further in this connection by
3 making verbal representations. With
4 great respect, we wish to advise,
5 therefore, that we will not be making
6 an appearance before the Board in
7 connection with this brief.

8 Yours very sincerely, (signed) C.B.
9 C. Scott."

10 The Hearing is adjourned until 10:00
11 a.m., tomorrow morning.

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14 ---Adjournment.
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BINDING SECT. OCT 20 1967

